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APPENDIX A

No. 5-83-0601

IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

EVA WHEELER,
Plaintiff/Appellant,

vs.

CITY OF O'FALLON, ET AL,
Defendants/Appellees,

EVA WHEELER,
Plaintiff/Appellant,

vs.

BUILDING GRIEVANCE COMMITTEE
OF THE CITY OF O'FALLON, ET AL,
Defendants/Appellees.

Appeal from the Circuit Court
of St. Clair County

Honorable Stephen Kernan,
Judge Presiding.

HARRISON, J.

ORDER

Eva Wheeler, plaintiff, appeals from a judgment of the circuit court of St. Clair County affirming the decisions of the building grievance committee and the zoning board of appeals of the City of O'Fallon (city) in regard to the placement of a swimming pool on the lot of plaintiff's neighbor. For the reasons which follow, we affirm in part, reverse in part, and remand.

On December 17, 1979, the City of O'Fallon updated its zoning ordinance. This ordinance contains a chart which indicates that an "accessory building or structure", if detached and located in a "single-family residence dwelling district", must be at least three feet from the interior sideline of the builder's lot. That section of the ordinance defining "structure" specifically indicates that structures include swimming pools. Section 10.03 of the Zoning Ordinance provides that "this Ordinance shall supersede such other Ordinances or parts of other Ordinances of the City in conflict with the provisions of this Ordinance."

On January 17, 1980, the city enacted an ordinance adopting a general building code. Section 428.4 of that building code provides that "[a] wall of a swimming pool shall not be located less than six (6) feet from any rear or side property line or ten (10) feet from any street property line, except by specific rules of the jurisdiction in which it may be located." The ordinance adopting the building code also provides that "[a]ll ordinances or parts thereof that conflict with the provisions of this ordinance are to the extent of such conflict repealed."

In separate hearings before the zoning board of appeals and building grievance committees of the city, plaintiff asserted that a swimming pool installed by her neighbor, Victor Logan, was too close to her property line, and that the adequacy of the distance between Logan's pool and plaintiff's property line should be determined with reference to the building code and not the zoning ordinance. Both bodies ruled against plaintiff, the zoning board finding that the three foot setback requirement of the zoning ordinance applied and the building grievance committee denying plaintiff's claim without expressing reasons. Plaintiff subsequently sought review of both decisions in the circuit court of St. Clair County, and the cases were consolidated. Following a hearing, the court issued a judgment in which it found that the committee's finding that the relevant section of the zoning ordinance "supersedes § 428.4 of the building ordinance is * * * not against the manifest weight of the evidence."

On appeal, plaintiff argues that the trial court erred in concluding that the zoning ordinance superseded the building ordinance insofar as the setback requirement for swimming pools is concerned. We agree. The record establishes that the building ordinance did not come into effect until after the zoning ordinance had been updated. Where there is an irreconcilable conflict between statutes or ordinances the latest enactment in point of time will usually control. (See *Esin v. Liberty Mutual Insurance Co.* (1981), 99 Ill.App.3d 75, 80, 424 N.E.2d 1307; 34 Ill. L. § Prac. *Statutes* § 131 (1958).) This rule of construction is appropriately applied here, where the zoning ordinance unequivocally indicates that swimming pools must be at least three feet from the pool owner's side lot line and the building ordinance states with equal force that the minimum distance between pool and side lot lines must be six feet. Accordingly, the court erred in concluding that the relevant provisions of the zoning ordinance superseded those of the building ordinance, and the portion of the judgment so holding must be reversed.

Plaintiff also attacks the findings of the building grievance committee concerning a fence erected by plaintiff along the boundary line between her property and that of Logan. Section 428.8.2 of the building code provides that persons erecting swimming pools on their land must also "erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children." While plaintiff argues that Logan must, pursuant to this language, build his own fence along the property line in question, the building code also provides that a "natural barrier, hedge, pool cover or other protective device approved by the governing body may be used so long as the degree of protection afforded by the substituted devices or structures is not less" than that offered by the normally required enclosure. Here, the committee could properly have concluded that plaintiff's fence was the type of "other protective device" sufficient to enclose Logan's pool, and we cannot say that either the commit-

tee or the trial court erred in not requiring Logan to construct his own fence alongside plaintiff's. While plaintiff also asserts that her fence was not sufficient to make Logan's pool inaccessible to small children, we cannot say that the committee's finding to the contrary was against the manifest weight of the evidence.

For the foregoing reasons, that portion of the judgment of the circuit court of St. Clair county affirming the committee's finding regarding the adequacy of the fence is affirmed. The remainder of the judgment is reversed, and this cause is remanded for further proceedings not inconsistent herewith.

Affirmed in part, reversed in part and remanded.

WELCH, P.J., and KASSERMAN, J., concur.

APPENDIX B

Section 2.04 SCHEDULE: AREA AND BULK REGULATIONS: SIGNS; OFF-STREET PARKING REQUIREMENTS

(a) To facilitate public understanding of this Ordinance and for the better administration and convenience of use thereof, the regulations limiting the dwelling unit density, the heights, bulk and arrangement of buildings, limiting the size and use of signs, and requiring minimum off-street parking for each of the districts established by Section 2.01 hereof (or specified use), are set forth in Schedule 2.04(e) hereof, hereinafter called Schedule. Such Schedule is hereby adopted and declared to be an integral part of this Ordinance, and it may be amended in the same manner as any other part of this Ordinance.

(b) For each district (or specified use) named in said Schedule: the maximum number of dwelling units shall be as indicated in column "(B)"; the minimum lot requirements shall be as indicated in Columns "(C)", "(D)", and "(E)" of the Schedule; the minimum yard dimensions shall be as indicated in Columns "(F)", "(G)", "(H)", "(I)", and "(J)"; maximum lot coverage therefor shall be indicated as Column "(K)"; permitted floor area ratio (ratio of floor area to lot area) shall be indicated as Column "(L)"; maximum building heights shall be as indicated in Column "(M)"; requirements for accessory buildings and uses, as to maximum height shall be as indicated in columns "(O)", "(P)", "(Q)", "(R)" and "(S)", respectively; signs permitted shall be as indicated in Column "(T)"; minimum off-street parking shall be indicated in Column "(U)"; other pertinent matters and requirements are as indi-

cated in Column "(V)", and as otherwise set forth in the Schedule and in notes and remarks appended thereto.

(c) A blank space in a block of a column of said Schedule indicates that the requirement of that column does not pertain to the district or use specified on the corresponding horizontal lines. The words "Same as SR-1 (or other symbol or reference): as used in a column shall mean and include the specific limitations and requirements as set forth in the same column for district referred to by such symbol or reference; otherwise the limitations and requirements in said Schedule shall be read from left to right.

(d) Where the limitations and requirements of any of Column "(T)" through "(V)" of the Schedule are contained in a block which, reading vertically on the Schedule, covers more than one district (or specified use), such limitations and requirements shall be applicable to all of the districts or uses so covered by the block.

Where reference is made in said Schedule to another Section or provision of this Ordinance, such Section or provision referred to shall thereby be incorporated as an integral part of the requirement including such reference.

(e) SCHEDULE: AREA AND BULK REGULATIONS: SIGN AND PARKING REQUIREMENTS

See Schedule 2.04(e)

APPENDIX C

ORDINANCE NO. 1116

AN ORDINANCE AMENDING CHAPTER 7, DIVISION IV, ONE AND TWO FAMILY DWELLING CODE, OF THE CODE OF ORDINANCES, CITY OF O'FALLON, ILLINOIS AND REPEALING ORDINANCE NO. 952, AS AMENDED. **(THE CABO ONE AND TWO FAMILY DWELLING CODE)**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF O'FALLON, ILLINOIS as follows:

SECTION 1. That Chapter 7, Division IV of the Code of Ordinances, City of O'Fallon, Illinois, shall read as follows:

"7.30 **PURPOSE.** The **CABO ONE & TWO FAMILY DWELLING CODE** contains regulations designed to ensure the safe and proper construction, alteration, demolition and maintenance in accordance with nationally recognized standards. This Division is intended to adopt said regulations by reference in order to make them legally enforceable in this municipality.

"7.31 **ADOPTION OF CABO ONE & TWO FAMILY DWELLING CODE.** As authorized by State Law (Illinois Revised Statutes, Chapter 24, Section 1-3-2), the **CABO One & Two Family Dwelling Code**/1983 edition (second printing), published by the Building Officials and Code Administrators International, Incorporated, as amended from time to time, is hereby adopted as the One & Two Family Dwelling Code of the City of O'Fallon, as if fully set out in this Division, together with any insertions, additions, deletions, or modifications prescribed in Subsection (A).

(A) Revisions. The provisions of the **CABO One & Two Family Dwelling Code** are hereby revised by the insertions, additions, deletions and modifications as set forth in Schedule "D" of this Division.

SCHEDULE "D"

(1.) Delete Part V, Plumbing, Chapters 20, 21, 22, 23, 24, and 25. (Plumbing shall comply with the standards and requirements of the *Illinois State Plumbing Code, 1976.*).

(2.) Amend Part I, Chapter 1, Section R-103 to read:

"**R-103.1 Scope**. The provisions of this Code apply to the construction, prefabrication, alteration, use, occupancy and maintenance of detached one and two family dwellings not more than (3) stories in height and their accessory structures. Compliance with the requirements of this Code, as amended, may be construed as prima facie evidence of compliance with the locally adopted Code.

"**R-103.2 Exceptions**. (a) One and two family modular residence dwellings (manufactured housing) shall be subject to the operations of the *Administrative Rules and Regulations for Manufactured Housing and Mobile Home Safety Act, 1976*, as amended, Illinois Department of Public Health, Springfield, having reference to the *One and Two Family Dwelling Code of Illinois*.

"(b) One and two family mobile home dwellings shall be subject to the operations of the *Administrative Rules and Regulations for Manufactured Housing and Mobile Home Safety Act, 1976*, as amended, Illinois Department of Public Health, Springfield, having reference to the Mobile Home Construction and Safety Standards and HUD Rules and Regulations, with respect to one-family

mobile homes, and having reference to the BOCA Basic Building Code, with respect to two-family mobile homes.

"**R-103.3 Validity of Other Laws**. The provisions of this Code shall not be construed to repeal, modify or constitute an alternative to the provisions of the Zoning Ordinance as they relate to permitted classes of principal structures, to use and occupancy of buildings and structures, and/or to the area and bulk regulations for buildings and structures. Nor shall the provisions of this Code be construed to abrogate or set aside the building and structure standards and requirements of the Flood Hazard Management Regulations Ordinance, which standards and requirements therein shall be held in complement hereto. (See Section 1910.1 (b) of the National Flood Insurance Program, 41 FR 46975, Oct. 26, 1976.)"

(3.) Amend Part I, Chapter 1, Section R-107 to read:

"**R-107 Right to Appeal**. All persons shall have the right to appeal the Building Official's decision through the Building Construction Grievance Board (Chapter 7, Division III, General Building code, Code of Ordinances, O'Fallon, Illinois). Appeal procedure shall be as provided by the General Building Code."

(4.) Amend Part I, Chapter 1, Section R-109.2 to read:

"**R-109.2 Permit Fees**. Permit fees shall be as established from time to time, by Resolution of the Corporate Authorities."

(5.) Insert the following entries to Table No. R-202, Climatic and Geographic Design Criteria.

Roof Live load pounds per square foot:
"Flat to less than 4/12 pitch, 20#";
"4/12 pitch to less than 12/12 pitch, 16#";
"12/12 pitch and greater, 12#".

Roof snow load pounds per square foot: "14 4/10#"
Wind pressure in pounds per square foot: "10#"
Seismic Condition Zone: "1"
Subject to damage from weathering: "Moderate (100° to 500°)"
Frost line depth: "30 in."
Subject to damage from termites: "Moderate to heavy"
Subject to damage from decay: "Slight to moderate"

(6.) Amend Part III, Chapter 3, Figure No. R-303, the notation "1/2" Ø bolts 6' o/c, 15" in masonry not more than 12" from corner." shall read:

"1/2 inch diameter bolts 6 feet on center, 8 inches into masonry, not more than 12 inches from corner."

(7.) Amend Part III, Chapter 4, Section R-402.7, Paragraph 4 to read:

"4. At openings around vents, pipes, ducts, chimneys and fireplaces at ceilings and floor level, with noncombustible materials; fire-stopping measures need not be taken at such locations, other than fireplaces and chimneys, provided the opening has one-inch or less tolerance."

(8.) Amend Part III, Chapter 8, Section R-803.1 to read:

"**R-803.1 High Slope Application for Asphalt Roofing Shingles**. Composition shingles shall be applied only to solidly sheathed roofs. Composition shingles shall not be installed on a roof having a slope of less than four (4) in twelve (12) unless approved by the Building Officials.

Composition shingle roofs shall have an underlay of not less than fifteen (15) pound felt, applied as required for a base sheet. The underlay may be omitted where the

roof slope is four (4) inches in twelve (12) inches or greater, or where shingles are laid not less than three (3) thicknesses at any point."

(9.) Amend Part IV, Chapter II, Section M-1102 to read:

"**M-1102, Appliance Clearance**. Appliances shall have clearances from combustible material in accordance with Tables No. M-1102.1 and No. M-1102.2, or in accordance with their manufacturers listing. Furnaces and plenum chambers shall bear the label of an approved testing agency and shall have at least the minimum clearance specified by the manufacturer; the manufacturers installation instruction shall remain attached to the appliance.

(10.) Amend Part IV, Chapter 16, Section M-1603.2 Paragraph 1 to read:

"1. All duct work installed in an attic shall be insulated. All metal supply duct work installed in a ventilated crawl space or other non-conditioned area shall be insulated.* Insulation shall be a minimum two (2) inches thick, three-quarter (3/4) pound density blanket or one (1) inch thick, one and one-half ($1^1/_2$) pound density liner. When ducts used for cooling are externally insulated, the insulation shall be covered with a vapor barrier having a maximum permeance of five-hundredths (0.05) perms or aluminum foil having a minimum thickness of two (2) mils. When non-metalic ducts or other approved insulating material or lining materials are used, the minimum thermal conductance value of the material shall be twenty-three hundredths (0.23) at seventy-five degrees (75°) F. All exterior ducts insulated shall be properly protected with an approved weatherproof vapor barrier." And add the following footnote to said Section 1603.2: "*Metal supply duct work installed in a ventilated crawl space

need not be insulated if the vents are of the type "that may be closed and if the perimeter foundation walls of the crawl space are insulated with an insulation of at least R-5 value."

(11.) Amend Part III, Chapter 3, Section R-308.1, Paragraph 2 to read:

"2. All sills which rest on concrete or masonry exterior walls and are less than eight (8) inches from exposed ground; all sills and band joists or blocking wood members that are six (6) inches or less or are below earth grade."

"7.32 **ADMINISTRATION AND ENFORCEMENT**. The adopted One and Two Family Dwelling Code shall be administered and enforced in conformity with Division V, Chapter 7 of the Revised Code of Ordinances, O'Fallon, Illinois.

"7.33 **PENALTIES**. A violation of any provision of this Article shall constitute a petty offense. Any person convicted of a violation of this Article shall be fined not less than fifty dollars ($50.00), plus costs. Each day that a violation continues shall be considered a separate offense.

The imposition of the penalties herein prescribed shall not preclude the legal counsel of the City from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or use of a building, structure or premises.

"7.34 **SAVING PROVISION**. Except as provided in Schedule "D", paragraph 2, amended Section R-103.3 herein above, these regulations shall not be construed as abating any action now pending under, by virtue of, prior existing One & Two Family Dwelling Code regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as

affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any Section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

"7.35 **COPIES AVAILABLE FOR INSPECTION**. As required by State Law (Illinois Revised Statutes, Chapter 24, Section 1-3-2), the City Clerk is hereby directed to keep at least three (3) copies of the adopted CABO One and Two Family Dwelling Code on file in his office for public use, inspection, and examination."

SECTION 2. That Ordinance No. 952, as amended, is hereby repealed.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

/s/ Gary C. Mackey
MAYOR

ATTEST:
/s/ Debra Kopley
CITY CLERK
PASSED: September 4, 1984
APPROVED: September 4, 1984
PUBLISHED: September 13, 1984
AYES: Jenner, Grimmer, Holliday, Lugge, Morton, Belsheim, McGinnis, Vetri
NAYS: None

APPENDIX D

ORDINANCE NO. 1138

AN ORDINANCE AMENDING ORDINANCE NO. 742, REVISED CODE OF ORDINANCES OF THE CITY OF O'FALLON, CHAPTER 7, BUILDING REGULATIONS, ARTICLE 1, BUILDING CODE, DIVISION 3, SECTION 7.21.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS, as follows:

SECTION 1: That Chapter 7, Building Regulations, of Ordinance No. 742, Revised Code of City Ordinances, Division 3, General Building code, Section 7.21, be amended to read as follows:

1. Amend Section 7.21 to read as follows:

   "As authorized by State law (Illinois Revised Statutes, Chapter 24, Section 1-3-21), The BOCA Basic National Building code/1984 (9th edition), published by the Building Officials and Code Administrators International, Inc., as amended from time to time, is hereby adopted as the General Building Code of the city, as if fully set out in this Division, together any insertions, additions, deletions, or modifications prescribed in Subsection 7.21(A)."

2. Amend Schedule "C", Subsection 7.21(A), by deleting Paragraphs Roman numerals "I" through "XIV", and inserting in their place Paragraphs Roman numerals "I" through "XXIV", as follows:

   I. Change Section 100.1, SCOPE-Title, to read:

   "100.1 Title: These regulations shall be known as the General Building Code of the City of O'Fallon, Illinois,

hereinafter referred to as 'this code' and/or 'building code'."

II. Change Section 101.5, APPLICABILITY-Other regulations, to read:

"101.5 Other regulations: When the provisions herein specified for health, safety and welfare are more restrictive than other regulations, this code shall control; but in any case, the more rigid requirements of either the building code or other regulations shall apply whenever they may be in conflict.

"101.5.1 Exemptions:

(a) Manufactured housing - one and two-family modular residence dwellings (manufactured housing) shall be subject to the operations of the *Administrative Rules and Regulations for Manufactured Housing Mobile Home Safety Act, 1976*, as amended, Illinois Department of Public Health, Springfield, having reference to the 'One and Two-Family Dwelling Code of Illinois'.

(b) Mobile homes - One and two-family mobile homes shall be subject to the operations of the *Administrative Rules and Regulations for Manufactured Housing and Mobile Home Safety Act, 1976*, as amended, Illinois Department of Public Health, Springfield, having reference to one-family mobile home dwellings and their construction as regulated by the H.U.D. Mobile Home Construction and Safety Standards and Rules and Regulations; and having reference to two-family mobile home dwellings and to non-dwelling mobile homes and their construction as regulated by this code.

(c) Zoning - the provisions of this code shall not be construed to repeal, modify or constitute an alternative to the provisions of the zoning ordinance as they relate to permitted classes of principal buildings, to use and occupancy of buildings and structures, and/or to the area and bulk regulation of buildings and structures.

(d) Flood hazard areas - the provisions of this code shall not be construed to abrogate or set aside the building and structure standards and requirements of the Flood Hazard Management Regulations Ordinance, which standards and requirements therein shall be found in complement hereto."

III. Change Section 109.3, DEPARTMENT OF BUILDING INSPECTION-ORGANIZATION, to read:

"109.3 Organization: The Mayor shall appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this code, with the advice and consent of the City Council."

IV. Change Section 110.1, DUTIES AND POWERS OF THE BUILDING OFFICIAL-General, to read:

"110.1 General: The administration and enforcement of this code shall be subject to the applicable provisions of Divisions III and V, Chapter 7, Article I of the Code of Ordinances of the City of O'Fallon, Illinois, and as otherwise provided herein. The building official shall enforce all the provisions of this code and shall act on any question relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of

service equipment and the location, use, occupancy and maintenance of all buildings and structures, except as may otherwise be specifically provided for by statutory requirements or as provided by the following Sections 110.2 through 110.8."

V. Change Section 111.2, APPLICATION FOR PERMITS - Form of Application, to read:

"112.2 Form of application: Except as otherwise provided by the provisions of Section 7.40, Division V, Article I, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois, the form and content of applications for permits shall conform to the provisions of this code. The application for a permit shall be submitted in such form as the building official may prescribe and shall be accompanied by the required fee as prescribed by Section 114.0."

VI. Change Section 114.1, FEES - General, to read:

"114.1 General: Except as otherwise provided by Subsection 7.22 (B), Division III, Article I, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois, a permit to begin work for new construction, alteration, removal, demolition or other building operations shall not be issued until the fees prescribed in this section shall have been paid to the City Clerk of the jurisdiction, nor shall an amendment to a permit necessitating an additional fee be approved until the additional fee shall have been paid."

VII. Change Section 114.3.1, FEES - Fee Schedule, to read:

"114.3.1 Fee Schedule: A fee for each plan examination, building permit and inspections shall be paid to the City Clerk at a rate, or rates, established by written order or Resolution of the Corporate Authorities."

VIII. Delete Section 114.4, FEES - Accounting, without replacement.

IX. Change Section 117.2, VIOLATIONS - Right of entry, to read:

"117.2 Right of entry: Except as otherwise provided by Section 7.37, Division V, Article I, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois, in the discharge of duties, the building official or authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of this code."

X. Change Section 117.2, VIOLATIONS - Notice of Violation, to read:

"117.2 Notice of violation: The building official shall serve a notice of violation or correction notice order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code or the order or direction made pursuant thereto. If the person responsible for such violation is not present, the notice or order may be served upon his agent or the person performing the work or occupancy, or the notice or order may be prominently posted upon the structure or premises in question."

XI. Change Section 117.3, VIOLATIONS - Prosecution for violation, to read:

"117.3 Prosecution for violation: If the notice of violation or correction notice order is not complied with promptly, the building official shall request the legal

counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such vioaltion or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Actions for violation shall be subject to Section 7.39, Division V, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois."

XII. Change Section 117.4, VIOLATIONS - Violation penalties, to read:

"117.4 Violation penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to the operation of Section 7.23, Division III, Article I, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois."

XIII. Change Section 118.1, STOP WORK ORDER - Notice to owner, to read:

"118.1 Notice to owner: Stop work orders shall be subject to the operations of Section 7.38, Division V, Article I, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or the owner's agent, or to the person doing the work; and shall state the conditions under which the work may be resumed. If the owner or owner's agent cannot be found,

and if there is no one performing work at the location in question, then the stop work order shall be posted upon the structure in question."

XIV. Change Section 118.2, STOP WORK ORDER - Unlawful continuance, to read:

"118. Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be liable and subject to the penalties prescribed by Section 7.23, Division III, Article I, Chapter 7 of the Code of Ordinances of the City of O'Fallon, Illinois.

XV. At Section 123.3, BOARD OF SURVEY - Compensation of board of survey, insert "(reserved)" for "(amount)".

XVI. Change Section 124.0 et seq., BOARD OF APPEALS, to read:

124.0 BUILDING CONSTRUCTION GRIEVANCE BOARD

124.1 APPLICATION FOR APPEAL: The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Board of Appeals. Application for appeal may be made when it is claimed that: the true intent of this code or the rules legally adapted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction can be used.

124.2 CONSTRUCTION OF BOARD OF APPEALS.

124.2.1 MEMBERSHIP OF BOARD: The Board shall consist of five members recommended by the Mayor and approved by the City Council. Each member shall serve a two year term.

124.2.2 QUALIFICATIONS OF BOARD MEMBERS: Each member shall be a licensed professional engineer or architect, or a builder or superintendent of building construction, or a licensed real estate broker, with at least ten years of experience, for five years of which he shall have been in responsible charge of work. The city engineer may fill the seat of the professional engineer. Three members shall be contractors (one general contractor, one contractor-remodeling expert, one sub-contractor-electrical) and one shall be a licensed real estate broker.

124.2.3 ABSENCE OF MEMBERS: During absence of a member, the Mayor shall designate a qualified substitute. The Mayor with Council approval shall appoint alternates who may sit on the Board in the absence of any regular member. Such alternates shall meet the general qualifications as required for regular members and while sitting on the Board have the same powers and authorities of the regular member.

124.2.4 CHAIRMAN OF BOARD: The Board shall select one of its members to serve as chairman, and the City Clerk shall designate a clerk from the city to serve as recording secretary to the Board, who shall keep a detailed record of all proceedings on file in the department of building inspection.

124.2.5 EXEMPTION OF MEMBERS: A member of the Board shall not pass on any question in which he is engaged as contractor or material dealer, or in the preparation of plans or specifications, or in which he has any personal or business interest.

124.3 APPEALS PROCEDURES.

124.3.1 NOTICE OF MEETING: The Board will meet upon notice of the chairman within five days of the filing of an appeal or a stated periodic meetings if warranted by the volume of work.

124.3.2 PUBLIC MEETINGS: All meetings shall be public; and the appellant, his representative, the official of jurisdiction and any other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard.

124.3.3 ADJOURNED MEETING: When five qualified members are not present to consider a specific appeal, either the appellant, the building official or their representatives may request a postponement of the hearing.

124.4 DECISION OF BOARD OF APPEALS.

124.4.1 ACTION OF THE BOARD: The Board shall affirm, modify or reverse the decision of the building official by a concurring vote of three members. The Board in making its ruling has all the powers of the building officials from who the appeal is taken.

124.4.2 RESOLUTION OF BOARD: Every action of the Board shall be by resolution and certified copies shall be furnished to the appellant and to the building official.

124.4.3 DETERMINING THE VOTE: Failure to secure three concurring votes shall be deemed a confirmation of the decision of the building official, except that the appellant shall be entitled to further hearing before a full Board if there were not five qualified members present when the vote was taken.

124.4.4 ENFORCEMENT OF DECISION: The building official shall take immediate action in accordance with the decision of the Board.

124.5 COURT REVIEW: Any person aggrieved by a decision of the Board of Appeals may follow the Administrative Review Act to appeal the decision of the Board to the Circuit Court of St. Clair County.

XVII. Add Section 514.0 et seq., FIRE LIMITS, to read:

SECTION 514.0 FIRE LIMITS

"514.1 General: For the purpose of control of use and construction of buildings to prevent conflagration from fire, the building official may establish limiting districts designated "fire limits" and "outside fire limits", under the legal procedure of the jurisdiction for creating and establishing fire limits."

"514.2 Fire limits: The fire limits shall comprise the areas containing congested business, commercial, manufacturing and industrial uses or in which such uses are developing. The limits of such areas are described in Section 16.01, Chapter 16 of the Code of Ordinances, City of O'Fallon, Illinois."

"514.3 Outside fire limits: All other areas not included in the fire limits shall be designated as outside fire limits."

XVIII. Add Section 515.0 et seq., RESTRICTIONS WITHIN FIRE LIMITS, to read:

SECTION 515.0 RESTRICTIONS WITHIN THE FIRE LIMITS

"515.1 General: All buildings and structures, and all additions to existing buildings and structures, hereafter

erected within the boundaries of the fire limits shall be of Type 1, 2A, 2B, 3A or 3B construction as defined in Article 4 and regulated in Table 401; and shall be constructed within the height and area limitations of Table 501 except as herein provided. Open parking structures may be constructed as permitted under Section 617.0."

"515.1.1 Use not permitted: Buildings of Use Group H shall not be permitted within the fire limits."

"515.2 Type 2C, 3C or 4A construction permitted: Buildings and structures, and additions to existing buildings and structures, hereafter erected within the fire limits may be of Type 2C, 3C, or 4A construction as defined in Article 4 and regulated in Tables 401 and 501 when constructed and located in accordance with the requirements of Table 515.

TABLE 515

EXTERIOR WALL FIRE RESISTANCE RATING REQUIREMENTS

Width of fire separation adjacent to exterior wall	Fire resistance rating of exterior wall[a] or barrier	Fire resistance rating of exterior opening protectives	Minimum classification of roof covering
On lot lines or less than 3 feet therefrom or from any building	4 hour	Not permitted	B
3 feet or more but less than 6 feet	3 hour	3 hour	B
6 feet or more but less than 11 feet	2 hour	1 1/2 hour	B
11 feet or more but less than 30 feet	1 hour	3/4 hour	B
30 feet or more	0 hour	0 hour	C

NOTE a. Not less than required by Table 401. The exterior wall or barrier shall extend to the height of the building and be so constructed that it will remain structurally in place for the duration of time indicated by the required fire resistance rating. When the exterior wall or barrier is adjacent to a flat roof, it shall be constructed with a parapet (See Section 1406.4).

"515.3 Motor fuel service stations: Gasoline service stations, and structures of similar business uses, not including Use Group H, may be erected of Type 2C construction within the height and area limits for Use Group B of Table 501 provided they are located not less than 11 feet from the lot line of any building."

"515.4 Wood veneers: Wood veneers of 1 inch nominal thickness or exterior grade plywood not less than 3/8 inch thick may be used on exterior walls when facing a fire separation of a minimum of 30 feet; provided the veneer does not exceed one story in height and is applied to noncombustible backing or is furred not to exceed 1 5/8 inch and firestopped in accordance with Section 1420.0. Where all wood veneers comply with Section 1403.5.2 for exterior use, the height may be increased to two stories.

XIX. Add Section 516.0 et seq., RESTRICTIONS OUTSIDE FIRE LIMITS, to read:

"SECTION 516.0 RESTRICTIONS OUTSIDE FIRE LIMITS."

"516.1 General: Outside the fire limits all types of construction, except as herein specifically prohibited or for which special approval is required in connection with special uses and occupancies in Article 6, shall be permitted within the height and area limitations of Table 501."

"516.2 Fire separation: Exterior wall fire separation and fire resistance rated construction shall comply with the requirements of Section 1406.2.

"516.3 Roof coverings: Roof coverings shall conform to the fire resistive requirements for Class A, B, C or

nonrated roofings complying with the provisions of Section 1427.0."

XX. Add Section 623.0 et seq., MOTOR FUEL SERVICE STATIONS, to read:

"623.1 Construction: Buildings and structures used for the storage and sale of motor fuel oils shall conform to Table 501 for Use Group B and the types of construction as modified by Section 515.0."

"623.1.1 Opening protectives: All permissible openings in walls with a fire separation of less than 20 feet shall be protected with approved fire windows or doors complying with Article 14, except doors in such walls to restrooms."

"623.1.2 Basements: Motor fuel service stations shall not have cellars or basements.

"623.2 Gasoline Storage: All volatile flammable liquid storage tanks shall be installed as specified in Section 602.0."

XXI. Delete Sections 1807.1 et seq., EXCAVATIONS, and insert in their place:

"1807.1 Adoption of excavation regulations: As authorized by State Law (Illinois Revised Statutes, Chapter 24, Section 1-3-2), the provisions of the Protection of Adjacent Landowners Act of the State of Illinois (Illinois Revised Statutes, Chapter 17 1/2, Section 51), are hereby adopted as the excavation regulations of the City of O'Fallon, Illinois, as if fully set out in this code."

XXII. Change Section 1906.1, BONDS AND LIABILITY INSURANCE - FILING, by inserting the dollar amounts as listed below:

(a) Insert: "$_____.00" for: . . . . bond shall be filed in the sum of "(amount)" . . . .'

(b) Insert: "$_____.00" for: . . . . public liability in the amount of "(amount)" . . . ."

(c) Insert: "$_____.00" for: . . . . property damage in the amount of "(amount)" . . . .

XXIII. Delete Sections 2000.1 et seq., ELECTRIC WIRING, EQUIPMENT AND SYSTEMS, and insert in their place the following:

"2000.1 Electrical Code: Electrical wiring, equipment and systems shall comply with the provisions of Division II, Article I, Chapter 7 of the Code of Ordinances, City of O'Fallon, Illinois."

XXIV. Delete Sections 2200.1 et seq., PLUMBING SYSTEMS, and insert in their place the following:

"2200.1 Plumbing Code: Plumbing systems shall comply with the provisions of Division I, Article I, Chapter 7 of the Code of Ordinances, City of O'Fallon, Illinois."

3. Amend Subsection 7.22 (B), Fee Schedule, to read:

"(B) Fee Schedule. No permit to allow performance of any building work shall be issued until the applicant has paid the fee indicated in Section 114.0 of the General Building Code of the city, as amended and set forth in this Division III, Section 7.21, Schedule "C", Numbers VI and VII.

XXI. Change Section 1409.1.2, FIRE SEPARATION WALLS, Multiple single-family dwellings, and add Sections 1409.1.2.1 and 1409.1.2.2, to read:

1409.1.2 Condominium dwelling units: Dwelling units in a condominium multi-family dwelling (Use Group R-2) or in a condominium two-family dwelling (Use Group R-3) shall be completely separated from the adjoining dwelling unit(s) by fire separation walls and/or floor/ceiling assemblies having a fire resistance rating of not less than one and one-half (1 l/2) hours.

1409.1.2.1 Condominium multi-family dwelling structures (Use Group R-2) with each dwelling unit having independent means of egress shall be considered as one building classified as Use Group R-3 for determining the applicable provisions of this Code.

1409.1.2.2 Condominium multi-family dwelling structures (Use Group R-2) with dwelling units having means of egress other than independent means, unless a greater fire resistance rating is required by this code, with interior means of egress (exit access corridors, exit hallways and stairways, lobbies, etc.) shall have a fire resistance rating of at least one and one-half ($1^1/_2$) hours.

1409.1.2.3 Condominium is hereby defined as common ownership of two or more persons holding undivided fractional shares in the same property and having the right to alienate their shares, or individual ownership of a unit in a multiple unit structure.

SECTION 2: This Ordinance shall be in full force and effect from and after its passage, approval and publication.

/s/ Gary C. Mackey
MAYOR

ATTEST:
Debra Kopley
CITY CLERK
PASSED: February 18, 1985
APPROVED: February 18, 1985
PUBLISHED: FEBRUARY 28, 1985
AYES: Jenner, Grimmer, Holliday, Morton, Belsheim, McGinnis, Vetri
NAYS: NONE
ABSENT: Lugge